

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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JAVIER HERNANDEZ, et al.

: 02 Civ. 0523(S)(Sr)

Plaintiffs, : **CLASS ACTION**

vs. :

MARIA GARCIA-BOTELLO, et al.

:

Defendants. :  
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**NOTICE OF MOTION TO DISMISS THE COUNTERCLAIM**

PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law, Plaintiffs will hereby move this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) on May 1, 2007, for an Order directing that the Plaintiffs' Motion to Dismiss the Counterclaim be granted.

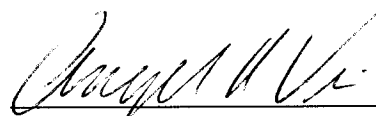
PLEASE TAKE FURTHER NOTICE that responsive papers, if any, are due on April 19, 2007 in accordance with Local Rule 7.1(c).

PLEASE TAKE FURTHER NOTICE that Plaintiffs intend to file and serve reply papers.

Dated: March 12, 2007

Respectfully submitted,

By:



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